



Royal Canadian Mounted Police External Review Committee

Suspensions - Consultation Report



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**Royal Canadian Mounted Police
External Review Committee**

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The Committee is publishing a series of discussion papers to elicit public comment to assist the Committee in the formulation of recommendations pursuant to the Royal Canadian Mounted Police Act (1986). The views expressed in this paper are not necessarily the views of the Committee.

Comments are invited; they should be addressed to:

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FOREWORD

The first Discussion Paper of the RCMP External Review Committee on Suspension was distributed for consultation in July 1988.

Respondents, participation in the consultation process provided clear evidence of the need to delve deeper into human resource issues in the field of law enforcement. In the interests of confidentiality, quotations will remain anonymous.

The External Review Committee is currently working on additional Discussion Papers, to be released periodically.

Robert F. Benson
Executive Director
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SUSPENSIONS CONSULTATION REPORT

1. Consultation

(a) Method and objective

The Committee consulted the Attorneys General and Solicitors General of the Provinces and Territories, the Commissioner of the RCMP and the National Executive of divisional staff relations representatives. The Canadian Association of Chiefs of Police and the Canadian Police Association helped us draw up a representative list of organizations from their membership to be consulted. In addition, the Committee consulted the Public Service Commission, the Treasury Board Secretariat and specific major Canadian businesses. In all, eighty-four groups were contacted.

Our purpose in these consultations was to verify the accuracy of our data, gather feedback on the form and content of the Discussion Paper, pick up models or options we may have overlooked and complete our comparative analysis.

By September 30, 1988, the Committee had received replies from law enforcement agencies representing sixty-three per cent of all police officers in Canada.

Response figures were as follows:

| Organization | Per Cent Responding |
|-------------------------|----------------------------|
| Government | |
| - Federal | 66.6 |
| - Provincial | 30.7 |
| Police | |
| - Commissions | 20.0 |
| - Forces | 34.2 |
| - Members' associations | 12.5 |
| Private Sector | 33.3 |

(b) General Comments

Those responding represented a cross-section of the interests and regions consulted, although small police forces had a particularly low response rate. Financial and staffing restraints were most likely what prevented them from offering their frequently innovative, always interesting, solutions to suspension-related problems. The Committee hopes that they will be able to take part in the next round of consultation.

Observations on the Discussion Paper's format were favourable. Its plain language, thorough research and quick-reference format were appreciated, as this comment attests:

"Let me be frank with you. I began to read the Paper with a certain prejudicial outlook, namely that this would be another exercise prepared by people who don't know what they are talking about. I am happy to acknowledge how unfair and incorrect that particular piece of bias was.

I consider Discussion Paper 1 to be well researched, well written, and very balanced in its presentation, and I wish to compliment you and those responsible for an outstanding and thoughtful discussion paper".

The following are typical of feed-back concerning the contents of the Paper:

"... a capsulized overview of how other Police departments and sectors deal with suspensions ..."

"... the discussion of suspensions in terms of a number of options is an attractive approach as it provides managers with a range of choices ..."

"... provides discussion on a variety of relevant topics ..."

"analyses the various models, paying careful heed to objectivity..."

"... thoroughly dealt with the whole issue of suspensions, particularly within a police organization ..."

We found that respondents liked comparative, objective analyses of the range of models and options available in the field of law enforcement, as these enabled managers to make informed choices and assessments. The Committee will therefore carry on with this approach in subsequent Discussion Papers.

It is worth noting that the Committee received requests for copies of the Discussion Paper from agencies that were not on the original consultation list. Those requests demonstrate an active interest in the staff relations issues facing law enforcement organizations, and constitute a sign of encouragement to the Committee.

2. Commentary on Content

(a) Terminology

To some, the word "suspension" has a negative or ambiguous connotation.

Its pejorative connotation derives from the common use of suspension to indicate disapproval of something the employee has done; in that context, a value judgment on the behaviour has already been made.

Ambiguity arises when "suspension" is used to designate both interim measures (pending completion of a full investigation of the incident) and disciplinary measures...

This line of reasoning led respondents to suggest using separate terms in an effort to spare a purely interim measure pejorative undertones and to distinguish it from disciplinary suspension. Proposed alternatives for the interim measure were:

"administrative leave" and

"hold out of service".

In Alberta, the draft Police Regulations refer to disciplinary suspension as "relief from duty"

(b) Extreme Solutions: Suspension With Full Pay or Without Pay

Respondents were nearly unanimous in rejecting a system that would automatically impose suspension either without pay or with full pay, sometimes effective to the expiry of all appeals. It was felt that such an approach did not weigh all parties' interests and that it could result in different treatment for officers from different police services, working on joint operations. Other measures should be available in some cases:

"... the need to balance employees' expectations and public perception was well made ..."

"... I think that suspending an employee with pay is just as unfair to the employer as suspension without pay may be to the employee. Surely there is a middle ground somewhere between these two extremes ..."

"... some form of equal balance is required both from an employee/employer perspective."

Some organizations reaffirmed an absolute discretion in the Police Chief, who must give primacy to the public interest. Those organizations favoured a range of measures, including suspension without pay and suspension with full pay.

Some respondents stated that their legal framework did not permit any exercise of discretion. For them, absolutes were untenable; they preferred a certain flexibility and sought to make it part of their systems. one agency in this group, however, said that suspension with pay was not an option their organization intended to consider.

(c) Temporary Reassignment

In some provinces, the law requires that suspension be either with full pay or without pay.

Some respondents stated that suspension with full pay could look like paid holidays. In the hope of warding off such a perception, managers might tend to reassign the employee rather than suspend him or her. Yet that solution could backfire in instances where, say, the employee is reassigned to a better position or should no longer perform duties within the organization. Small police forces might opt for reassignment rather than suspension because they are too short-staffed to do without an officer.

Suspension without pay could appear unjust to the employee, and reassignment may be a suitable alternative. After all, reassignment is possible even in jurisdictions where the system requires payment or non-payment of wages following the suspension decision, because suspension is never mandatory in the first place.

Lastly, temporary reassignment could be used to appease public wrath when an employee would otherwise be suspended purely in deference to public pressure. By means of reassignment, the employee can be withdrawn from duties involving contact with the public without either "a paid vacation" or lost wages.

(d) Suspension With Partial Pay or Benefits

This option drew mixed reviews. One agency saw in it the mark of indecision in situations which call for a clear stand. Another considered it a viable option in certain instances. A third found it worth looking into and suggested suspension on half-pay, with the amount withheld being repaid to the employee if discipline is not imposed. A fourth organization thought highly enough of it to consider incorporating it into its regulations.

The option is already being used by one private sector organization, which pays fifty per cent of regular wages for the period of suspension extending beyond the first thirty days.

Another respondent could not accept the statement that, under this option, The costs of the employer-employee relationship that result in the problem ... are not passed on to

"innocent bystanders", namely, the "employee's family". According to this respondent, any cut in pay is liable to lower the standard of living. What is more, the effects of a reduction in pay will differ, depending on each employee's situation and thus could result in inequitable treatment even when the actual amount of the cut is the same.

The Committee acknowledges the administrative complexity of this option, but feels that drawback is surmountable in actual practice. Small police forces may have an advantage in that they are in a better position to assess how the individuals concerned would be affected.

(e) Suspension With Pay With Statutory Limits

We received considerable feed-back on this option. Ontario and Quebec law preclude this option, specifying either full pay or no pay for the duration of the suspension. A number of police forces in Ontario, though, considered the proposal worthwhile and more equitable. There seems to be a consensus on the merits of an initial period of thirty days, suspension with full pay, a policy carried out by a number of employers. Some would be inclined to extend the full-pay period to sixty or ninety days in the interests of a fuller investigation.

For some respondents, temporary reassignment was the preferred option; their second choice was suspension with full pay for thirty days, after which the employee would receive either partial pay, no pay or another measure left at the discretion of the Police Chief, Senior Officer or Police Commission.

One agency automatically suspends employees with full pay for the duration of the employer's internal investigation, following which the employee is either discharged or called back to work, with or without some disciplinary sanction. In so doing, the organization keeps the suspension period unrelated to external (criminal or other) investigations or legal proceedings that may drag on and on, and provides the employee with an opportunity to defend his or her interests during the internal investigation. The final decision is reached quickly, hence the period of uncertainty is short.

3. Standardization of Procedures

Although few respondents addressed standardization in so many words, some deductions may be made.

A number of respondents were pleased to have received a range of options; this may point to a preference for managerial discretion over imposed, standardized procedures. Some described their own systems and expressed their satisfaction with them; this might be interpreted as a preference for discretion or as a token of support for a standardized system similar to their own. Several in Ontario referred to their dissatisfaction with the system in that province because of its inflexibility; their preference for more options may

indicate a preference for standardization to that end or for more discretionary authority.

Some respondents specifically stated their preference for standardization, citing in support equitable treatment in cases of joint police operations, clarification of policy and a single set of standards. Others, however, were not in favour; in their view, it undercuts the total discretionary power of the Police Chief.

4. Conclusions

The comments received by the Committee have encouraged it to continue producing papers on issues of concern in the field of law enforcement. Users may find the reports helpful in policy development - indeed, one provincial Deputy Attorney General and two police forces are already using the Discussion Paper on Suspensions in drafting Acts and Regulations and conducting province-wide consultations. Another police force, not on the initial distribution list, requested a copy of the Discussion Paper to use in revising its own regulations.

All respondents appreciated having been consulted and many specifically asked for a report on the consultation. Many also requested to be placed on the consultation list for the Committee's subsequent Discussion Papers.

The response shows a need for discussion and communication on human resource issues in policing. There is everything to gain by a consultation process based on Discussion Papers such as the one on Suspensions, and feed-back is crucial to the success of the endeavour.

NOTES